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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 WAYNE KEVIN VERNON,

No. C 06-03338 CRB

12 Plaintiff,

ORDER TO SHOW CAUSE

13 v.

14 CITY AND COUNTY OF SAN
15 FRANCISCO, et al.

16 Defendants.
17 _____/

18 Plaintiff filed a complaint in state court alleging four intentional tort causes of action
19 relating to his arrest in San Francisco on March 5, 2005. Now pending before the Court is
20 defendant City and County of San Francisco's Notice of Removal based on federal question
21 jurisdiction.

22 A district court may *sua sponte* raise the issue of subject matter jurisdiction. See Galt
23 G/S v. Hapag-Lloyd AG, 60 F.3d 1370, 1373 (9th Cir. 1995). Removal pursuant to 28
24 U.S.C. section 1441(a), as defendant purports to execute here, is only appropriate if the
25 "complaint contains a cause of action that is within the original jurisdiction" of this court.
26 Toumajian v. Frailey, 135 F.3d 648, 653 (9th Cir. 1998). Defendant's Notice of Removal
27 contends that "[t]he Complaint in said pending action purports to state claims under 42
28 U.S.C. § 1983 in that it alleges violations of plaintiff's federal civil and constitutional
rights." Defs. Notice of Removal at 2. Yet the Court sees no reference to section 1983 nor

the U.S. Constitution on the face of the Complaint. See Not. of Removal, Exh. A.
Defendant, therefore, is hereby ORDERED to show cause as to the Court's original subject
matter jurisdiction in this matter. Defendant may demonstrate that the Court has such
jurisdiction no later than Friday, June 9, 2006.

IT IS SO ORDERED.

Dated: June 2, 2006



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

United States District Court

For the Northern District of California